



Meeting of States Parties

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Report on budgetary matters for the financial periods 2007-2008 and 2009-2010

Presented by the Registrar

I. Surrender of cash surplus for the financial period 2007-2008

A. Introduction

1. In June 2009, the nineteenth Meeting of States Parties took note of the report of the external auditor for the financial period 2007-2008 (SPLOS/192), which had been submitted to the Meeting by the International Tribunal for the Law of the Sea (see SPLOS/203, para. 36). According to the report of the auditor, the excess of income over expenditures as at 31 December 2008 amounted to €3,013,669. As explained in the report on budgetary matters for the period 2007-2008 (see SPLOS/193, paras. 2 and 3), the performance can largely be explained by the savings, amounting to €1,850,081, under "Case-related costs". These savings were achieved owing to the fact that two cases, namely Case No. 14 (*Hoshinmaru*) and Case No. 15 (*Tomimaru*), were submitted simultaneously in July 2007 and were dealt with within a period of one month in accordance with the relevant provisions of the Rules of the Tribunal (instead of two months had the cases been filed separately). Furthermore, in 2008, no new case was submitted to the Tribunal, which resulted in additional savings under "Case-related costs".

2. Under "Staff costs", savings amounting to €295,165 were made largely owing to vacant positions in the Registry during the period in question. Furthermore, savings amounting to €232,696 were also made in the budget section "Judges", principally because five judges had been re-elected in June 2008, while, in the budget approved in 2006, provision had been made for additional pension payments for the seven judges whose terms of office came to an end on 30 September 2008. It should further be pointed out that an amount of €50,568 was saved under the budget line "Judges' annual allowances" owing to the resignation of one judge and the death of another during the period in question.



B. Provisional cash surplus

3. Under regulation 4.4 of the Financial Regulations, the provisional cash surplus is determined by establishing the balance between credits (assessed contributions actually received and miscellaneous income received) and charges (disbursements against appropriations and provisions for unliquidated obligations). The balance of €3,013,669 reflects the excess of income over expenditures for the financial period 2007-2008. Pursuant to regulation 4.3 of the Financial Regulations, the amount of unpaid contributions should be deducted from this balance.

4. On this basis, the provisional cash surplus for the financial period 2007-2008 was determined as being €2,673,760. This amount is contained in the audit report of the financial statement of the Tribunal for the financial period 2007-2008 (see SPLOS/192) as follows:

Credit (€17,751,702) — charges (€14,738,033)	€3,013,669
Cancellation of the 2005-2006 obligations surrendered with the 2005-2006 cash surplus	- €107,160
Unpaid contributions	- €232,749
Provisional cash surplus	€2,673,760

C. Cash surplus

5. Under regulation 4.4 of the Financial Regulations, the cash surplus is determined by crediting to the provisional cash surplus any arrears of prior periods' contributions received during the financial period and any savings from the provisions made for unliquidated obligations for the financial period.

6. It should be noted that an amount of €784,136, forming part of the cash surplus for the financial period 2007-2008, has already been surrendered and deducted from the assessed contributions of the States parties for 2010 in accordance with the decision taken by the nineteenth Meeting of States Parties (see SPLOS/203, para. 43). On this basis, the cash surplus for the financial period 2007-2008 amounted to €2,121,150 as at 31 December 2009. In addition, the nineteenth Meeting of States Parties authorized the Tribunal to use part of the cash surplus from the 2007-2008 budget to finance an additional appropriation required to implement the new salary system for the members of the Tribunal for the period 1 July 2009 to 31 December 2010 (see SPLOS/200, para. 3). This additional appropriation amounting to €207,450 has also been deducted from the cash surplus for the financial period 2007-2008. On this basis the amount to be surrendered to the States parties as determined by the Registrar amounted to €1,913,700.

7. The cash surplus, as determined in paragraph 6, was reviewed by the auditor on 16 February 2010. The auditor certified that the cash surplus for the 2007-2008 financial period as at 31 December 2009 amounted to €2,121,150 (see annex I to the present report).

D. Surrender of cash surplus

8. Under regulation 4.5, the cash surplus will be surrendered as follows:

(a) *Apportionment of cash surplus*

The cash surplus, determined as outlined above, will be apportioned among the States parties in proportion to their contributions as determined for the financial period 2007-2008, to which the surplus relates.

(b) *Surrender of cash surplus*

The cash surplus for the financial period 2007-2008 thus apportioned to the States parties will:

(i) Be surrendered to the States parties, provided that their contribution for the financial period 2007-2008 has been paid in full; and

(ii) Be applied to liquidate first, in whole or in part, any arrears in contributions.

(c) *Retention of cash surplus apportioned but not surrendered*

Any cash surplus apportioned to the States parties but not surrendered owing to non-payment or partial payment of the contribution for the financial period in question will be retained by the Registrar until such time as the contribution for that financial period is paid in full.

9. In accordance with regulation 4.5 of the Financial Regulations, the Tribunal decided on 18 March 2010 that an amount of €1,913,700 would be surrendered and deducted from the contributions of States parties for 2011 and for earlier financial periods where applicable.

II. Provisional performance report for 2009

10. In June 2008, the eighteenth Meeting of States Parties approved a budgetary amount of €17,515,100 for the financial period 2009-2010 (SPLOS/180, para. 1). In addition, in June 2009, the nineteenth Meeting of States Parties authorized the Tribunal to use part of the cash surplus from the 2007-2008 budget to finance an additional appropriation required to implement the new salary system for the members of the Tribunal for the period from 1 July 2009 to December 2010 (see SPLOS/200, para. 3). This additional appropriation amounts to €207,450.

11. Attached as annex II is the performance report for the year 2009, which is provisional since it concerns the first year (2009) of the 2009-2010 biennium budget.

12. As shown in the provisional performance report for 2009, the total expenditure for that year stands provisionally at €7,294,856, representing 82.65 per cent of the appropriations in the amount of €8,826,700 approved for 2009. The underperformance can largely be explained by the savings, amounting to €1,268,460, under "Case-related costs". It may be noted that, if the case-related costs (€1,298,035) were excluded, the performance rate for other costs would be 96.50 per cent.

III. Report on action taken pursuant to the decisions concerning budgetary matters for the financial period 2007-2008 taken by the nineteenth Meeting of States Parties

Surrender of part of the cash surplus for the financial period 2007-2008

13. On the proposal of the President of the Tribunal, the nineteenth Meeting of States Parties decided in June 2009 that the amount of €784,136, corresponding to a part of the cash surplus for the financial period 2007-2008, would be surrendered and deducted from the assessed contributions of the States parties for 2010 (see SPLOS/203, para. 43).

14. In accordance with that decision, €784,136 was surrendered and deducted from the assessed contributions of the States parties to the 2010 budget of the Tribunal.

IV. Report on action taken pursuant to the decision concerning adjustment of the remuneration of members of the Tribunal

A. Financing of an additional appropriation required to implement the new salary system for the members of the Tribunal

15. The nineteenth Meeting of States Parties decided to set, effective 1 July 2009, the annual net base salary of the members of the Tribunal at \$161,681, with a corresponding post adjustment multiplier equal to 1 per cent of the net base salary, to which would be applied the post adjustment multiplier for Hamburg (see SPLOS/200, para. 1).

16. In this regard, the Meeting authorized the Tribunal to use part of the cash surplus from the 2007-2008 budget to finance an additional appropriation required to implement the new salary system for the members of the Tribunal for the period from 1 July 2009 to 31 December 2010 (see SPLOS/200, para. 3).

17. Following the above decision and authorization, the Tribunal added to the appropriations approved in June 2008 for 2009-2010 an amount of €207,450 from the cash surplus for the financial period 2007-2008. As a result, the appropriations approved for 2009-2010 were revised from €17,515,100 (see SPLOS/180) to €17,722,550.

B. Revision of the Pension Scheme Regulations for members of the Tribunal

18. The nineteenth Meeting of States Parties decided that a member of the Tribunal who is re-elected should receive one three-hundredth of his or her retirement benefit for each further month beyond nine years, up to a maximum two thirds of the annual net base salary, excluding post adjustment.

19. In this regard, the Meeting requested the Tribunal to make the necessary revisions to article 1, paragraph 2, of the Pension Scheme Regulations for members of the International Tribunal for the Law of the Sea.

20. Pursuant to the above decision, the Tribunal revised article 1, paragraph 2, of the Pension Scheme Regulations on 2 October 2009 as follows:

Article 1. Retirement pension

Paragraph 2

Subparagraph (a)

For the words "nine or more years", read "nine years".

At the end of the subparagraph, after the expression "one half of the annual salary", insert "(excluding post adjustment) or one half of the annual salary based upon the level of the remuneration decided by the fifteenth Meeting of States Parties in June 2005, whichever amount is higher".

A new subparagraph (b) is inserted, which reads as follows: "If the member has served for more than nine years, he/she shall receive one three-hundredth of his or her retirement benefit for each further month beyond nine years, up to a maximum pension of two thirds of the amount of the annual net base salary (excluding post adjustment)."

The current subparagraph (b) is re-numbered subparagraph (c).

The revised article 1, paragraph 2, reads as follows:

The amount of the retirement pension shall be determined as follows:

(a) If the member has served nine years, the amount of the annual pension shall be one half of the annual salary (excluding post adjustment) or one half of the annual salary based upon the level of the remuneration decided by the fifteenth Meeting of States Parties in June 2005, whichever amount is higher;

(b) If the member has served for more than nine years, he/she shall receive one three-hundredth of his or her retirement benefit for each further month beyond nine years, up to a maximum pension of two thirds of the amount of the annual net base salary (excluding post adjustment);

(c) If he/she has served for less than nine years, the amount of the pension shall be that proportion of the annual pension which the number of months of his/her actual service bears to 108.

V. Report on action taken pursuant to the Financial Regulations of the Tribunal

A. Investment of funds of the Tribunal

21. In respect of the investment of funds of the Tribunal, regulation 9 of the Financial Regulations of the Tribunal stipulates the following:

9.1 The Registrar may make prudent short-term investments of moneys not needed for immediate requirements and shall inform the Tribunal and the Meeting of States Parties periodically of such investments.

[...]

9.2 Income derived from investments shall be credited to miscellaneous income or as provided in the rules relating to each fund or account.

22. During 2009, the Tribunal's funds were kept in Chase Bank and Deutsche Bank in United States dollars and euros as short-term investments, which are investments made for less than 12 months according to rule 109.1 of the Financial Rules of the Tribunal. The funds yielded interest amounting to €64,349 during 2009. This earned interest has been credited as miscellaneous income in accordance with regulation 9.2 of the Financial Regulations of the Tribunal.

B. The Korea International Cooperation Agency trust fund

23. The Korea International Cooperation Agency (KOICA) offered to provide a grant of \$150,000 pursuant to a memorandum of understanding signed between the Tribunal and KOICA on 9 March 2004. Its object is to finance the expenses of participants from developing countries in the Tribunal's internship programme.

24. In accordance with regulation 6.5 of the Financial Regulations of the Tribunal, a trust fund was subsequently established and a special euro bank account named "KOICA grant" was set up with Deutsche Bank for this purpose. When the funds, amounting to \$150,000, were received from KOICA in March 2004 they were converted into €120,600 on the basis of the exchange rate of 0.804 fixed by the United Nations for March 2004.

25. In March 2006, the Tribunal received from KOICA its second contribution to the KOICA trust fund, in the amount of \$100,000. This amount was converted into €84,400 on the basis of the exchange rate of 0.844 fixed by the United Nations for March 2006.

26. Following the signing of additional memorandums of understanding between the Tribunal and KOICA, further contributions totalling €422,045 were received between 2007 and 2009. An amount of €213,645 was paid to the Tribunal in February 2007, €128,400 on 5 May 2008 and €80,000 on 16 June 2009 in order to finance the internship programme of the Tribunal, the organization of regional workshops and the participation of students from developing countries in the summer academy organized by the International Foundation for the Law of the Sea.

27. The performance of the KOICA grant as at 31 December 2009, which is to be reported to the Meeting of States Parties in accordance with regulation 6.5 of the Financial Regulations of the Tribunal, is as follows (in euros):

Contribution 16 June 2009	80 000
Interest income	11
Total	80 011
Expenditure on participants and authorized activity	-62 784
Bank charges	-188
Account receivable	-1 178
Reserves from prior periods	70 686

Investment of funds	-50 000
Bank balance	36 547
Investment of funds	50 000
Available balance	86 547

C. Nippon Foundation trust fund

28. In March 2007, the Tribunal and the Nippon Foundation signed "The Nippon Foundation grant agreement". Pursuant to the agreement, the Nippon Foundation agreed to contribute an amount of €200,000 to "The Nippon Foundation — International Tribunal for the Law of the Sea Capacity-Building and Training Programme on Dispute Settlement under the United Nations Convention on the Law of the Sea".

29. In accordance with regulation 6.5 of the Financial Regulations of the Tribunal, a trust fund was subsequently established and a special euro bank account named "Nippon Foundation grant" was set up with Deutsche Bank. The purpose of the grant is to finance the expenses of participants from developing countries in the aforementioned programme.

30. The second contribution of €200,000 was made to the Tribunal on 27 March 2008 and the third one, in the same amount, on 27 March 2009. The performance of the Nippon Foundation grant as at 31 December 2009, which is to be reported to the Meeting of States Parties in accordance with regulation 6.5 of the Financial Regulations of the Tribunal, is as follows (in euros):

Contribution 27 March 2009	200 000
Interest income	26
Total	200 026
Expenditure on participants and authorized activity	-188 294
Bank charges	-413
Account receivable	-4 880
Loss on exchange	-60
Investment of funds	-125 000
Prior periods reserves	140 123
Bank balance	21 502
Unliquidated obligations	-1 635
Investment of funds	125 000
Available balance	144 687

D. Trust Fund for the law of the sea

31. At its twenty-eighth session, the Tribunal approved the Registrar's proposal to establish a new trust fund for the law of the sea and decided to bring it to the Meeting of States Parties for its consideration in accordance with regulation 6.5 of the Financial Regulations of the Tribunal. Pursuant to the approval of the Tribunal the Registrar has established a new trust fund for the law of the sea with the Deutsche Bank in Hamburg.

32. As provided for in its terms of reference (see annex III), the Trust Fund is intended to promote the advancement of human resources in developing countries in law of the sea and maritime affairs in general. Contributions to be made to the Trust Fund will be used to give financial assistance for participation in the Tribunal's internship programme and the summer academy to applicants from developing countries. States, intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions as well as natural and juridical persons are invited to make voluntary financial or other contributions to the Trust Fund.

Annex I**Letter dated 18 February 2010 from BDO Deutsche Warentreuhand to the Registrar of the International Tribunal for the Law of the Sea****Certification of the cash surplus for the financial period 2007/2008 of the International Tribunal for the Law of the Sea**

The International Tribunal for the Law of the Sea (referred to as the "Tribunal" in the following) assigned us to examine the cash surplus of the Tribunal for the financial period 2007-2008.

The determination of the cash surplus according to the Financial Regulations of the Tribunal is the responsibility of the Registrar of the Tribunal. Our responsibility is to examine if the cash surplus is determined according to the Financial Regulations of the Tribunal.

Based on our examination the attached cash surplus of the Tribunal for the financial period 2007-2008 (appendix I) amounts to €2,121,150 and was determined in conformity with the Financial Regulations of the Tribunal.

In accordance with the decision of the nineteenth Meeting of States Parties (SPLOS/200) an amount of €207,450 is to be deducted from the cash surplus 2007-2008 to finance an additional appropriation required to implement the new salary system for the members of the Tribunal for the period 1 July 2009 to 31 December 2010. The final amount to be surrendered to the States parties amounts to €1,913,700.

For the performance of the assignment and our responsibility — including those to third parties — the general terms of assignment for auditors and audit companies as of 1 January 2002 as well as the special conditions for the increase of liability in connection with the general terms of assignment are applicable. These terms are attached in appendix II.

(Signed) Dirk Beecker
Wirtschaftsprüfer

(Signed) Gunnar Raif
Wirtschaftsprüfer

Appendix I

International Tribunal for the Law of the Sea: cash surplus for the financial period 2007-2008**Provisional cash surplus, 31 December 2008**

Excess of income over expenditure 2007-2008	3 013 669
Cancellation of 2005-2006 obligations surrendered with 2005-2006 cash surplus	-107 160
Contributions receivable from States parties with respect to 2007-2008	-232 749
Provisional cash surplus 2007-2008	2 673 760

Cash surplus, 31 December 2009

Surrender of savings in accordance with SPLOS/203	-784 136
Prior periods' contributions received in 2009	158 813
Savings from 2007-2008 obligations	72 713
Cash surplus 2007-2008, 31 December 2009	2 121 150

Additional appropriations, SPLOS/194	-207 450
Funds to be surrendered	1 913 700

Appendix II

**General engagement terms for Wirtschaftsprüfer and
Wirtschaftsprüfungsgesellschaften [German Public Auditors and
Public Audit Firms] as of 1 January 2002**

[For the text of appendix II, see SPLOS/175, annex I, appendix II.]

Provisional performance report, 2009

Part Section	Objects of expenditure	2009 approved budget	2009 expenditure (as at 12/02/2010)	Balance	Total expenditure/ approved budget (percentage)	Additional appropriation 2009 ^a
1	A					
2	1					
3						
4						
5						
6						
7						
8	2					
9						
10						
11						
12						
13						
14						
15						
16	3					
17	4					
18	5					
19	6					
20						
21						
22						
	RECURRENT EXPENDITURE	2 216 700	2 170 982	45 718		53 465
	Judges	1 357 850	1 387 007	-29 157	102.15	47 694
	Annual allowances	394 300	359 089	35 211	91.07	5 771
	Special allowances	133 800	103 332	30 468	77.23	0
	Travel to session	293 550	313 725	-20 175	106.87	0
	Judges' pension scheme	37 200	7 829	29 371	21.05	0
	Common costs					
	Staff costs	3 527 300	3 463 117	64 183		0
	Established posts	2 310 000	2 290 842	19 158	99.17	0
	Common staff costs	995 950	998 466	-2 516	100.25	0
	Reimbursement of national taxes	0	0	0	0.00	0
	Overtime	19 500	14 278	5 222	73.22	0
	Temporary assistance for meetings	105 250	92 750	12 500	88.12	0
	General temporary assistance	60 550	40 936	19 614	67.61	0
	Training	36 050	25 845	10 205	71.69	0
	Representation allowance	5 000	5 483	-483	109.66	0
	Official travel	92 650	100 734	-8 084	108.73	0
	Hospitality	6 950	4 454	2 496	64.09	0
	Operating expenditures	1 385 700	1 321 990	63 710		0
	Maintenance of premises (incl. security)	1 016 550	1 014 218	2 332	99.77	0
	Rental and maintenance of equipment	180 700	159 637	21 063	88.34	0
	Communications	98 600	74 500	24 100	75.56	0

23		Miscellaneous services and charges (incl. bank charges)	20 600	15 025	5 575	72.94	0	23
24		Supplies and materials	61 950	58 560	3 390	94.53	0	24
25		Special services (external audit)	7 300	50	7 250	0.68	0	25
26	7	Library and related costs	163 500	131 652	31 848		0	26
27		Library — procurement of books and publications	117 300	111 579	5 721	95.12	0	27
28		External printing and binding	46 200	20 073	26 127	43.45	0	28
29								29
30	B	NON-RECURRENT EXPENDITURE						30
31	8	Furniture and equipment						31
32		Purchase of equipment	77 400	66 869	10 531	86.39	0	32
33	9	Alteration to premises	0	0	0	0.00		33
34								34
35	C	CASE-RELATED COSTS	1 282 350	29 575				35
36	10	Judges	991 900	28 249	963 651	2.85	15 685	36
37		Special allowances	802 000	11 442	790 558	1.43	14 518	37
38		Compensation to judges ad hoc	48 350	1 879	46 471	3.89	1 167	38
39		Travel to meetings, incl. judges ad hoc	141 550	14 928	126 622	10.55	0	39
40	11	Staff costs	290 450	1 326	289 124	0.46	0	40
41		Temporary assistance for meetings	267 950	594	267 356	0.22	0	41
42		Overtime	22 500	732	21 768	3.25	0	42
43	12	Miscellaneous	0	0	0			43
44								44
45	D	WORKING CAPITAL FUND	0	0	0			45
46								46
47	C	TOTAL	8 757 550	7 294 856	1 462 694	83.30	69 150	47

* In accordance with SPLOS 194.

Annex III

Terms of reference for the Trust Fund for the law of the sea

I. Reasons for the establishment of the Trust Fund

The objectives of the Trust Fund are:

1. To promote the advancement of human resources in developing countries in law of the sea and maritime affairs in general.
2. To advance learning and research in law of the sea and maritime affairs in developing countries.
3. To give participants from developing countries in the internship programme of the International Tribunal for the Law of the Sea ("the Tribunal") and the Summer Academy the opportunity to gain an understanding of the work and functions of the Tribunal.

II. Objects and purpose of the Trust Fund

4. The Registrar establishes the present Trust Fund ("the Fund") in accordance with the Financial Regulations of the Tribunal. The object of the Fund is to give financial assistance for participation in the Tribunal's internship programme and the summer academy to applicants from developing countries as identified on the list published by the Organization for Economic Cooperation and Development (OECD) as well as to cover expenses incurred with respect to the implementation of the programme.

III. Contributions to the Fund

5. The Tribunal invites States, intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions as well as natural and juridical persons to make voluntary financial or other contributions to the Fund.

IV. Application for financial assistance

6. Applications for financial assistance from the Fund may be submitted by any applicant (students and young government officials) who is a national of any developing country as identified on the list published by OECD.

V. Eligibility for financial assistance

7. Applicants for the internship programme and financial assistance from the Fund should fulfil the following criteria:
 - (a) Should have completed at least three years of university studies;

(b) Should normally be engaged in a degree-granting or post-graduate programme at the time of application and also during the internship programme or in government service relating to law of the sea or maritime affairs;

(c) Should generally be not more than 35 years of age;

(d) Should have a good command of English and/or French;

(e) Should have an interest in international law, in particular international law of the sea, international judicial institutions and bodies, international maritime affairs and international maritime institutions and organizations;

(f) Should be a national of a developing country included on the OECD list;

(g) Should be in need of financial assistance.

8. Applicants for the summer academy and financial assistance from the Fund should fulfil the following criteria:

(a) Should be highly qualified graduates in fields related to law of the sea and maritime affairs, including diplomats, civil servants and lawyers;

(b) Should generally be not more than 35 years of age;

(c) Should have completed a Master of Law (LL.M.) or equivalent degree;

(d) Should have advanced knowledge of the legal, economic or natural science aspects of the maritime sector;

(e) Should have a good command of English and/or French;

(f) Should be a national of a developing country included on the OECD list;

(g) Should be in need of financial assistance.

VI. Consideration of applications

9. Applications for the internship programme and financial assistance from the Fund are collected by the Internship Coordinator at the Registry of the Tribunal and forwarded on a quarterly basis to the Selection Committee, consisting of the Legal Officers, Deputy Registrar and Registrar, with a duly completed eligibility checklist and a summary of the information provided.

10. Successful applications will be approved by the President of the Tribunal upon recommendation by the Registrar on the basis of the Selection Committee's considerations.

11. Applications for the summer academy and financial assistance from the Fund are collected by the International Foundation for the Law of the Sea, which will select candidates in consultation with the Tribunal on the basis of the criteria indicated in paragraph 8 above.

12. The selection of candidates for the Tribunal's internship programme and for the summer academy also takes account of geographical distribution.

VII. Granting of assistance

13. The Registrar will provide successful candidates for the internship programme and the summer academy with financial assistance from the Fund, which will cover travel expenses, accommodation, health insurance and daily living expenses. Payments will be processed by the Tribunal in accordance with standard practice.

VIII. Application of the Financial Regulations and Rules of the Tribunal

14. The Financial Regulations and Rules of the Tribunal will apply to the administration of the Fund. The Fund will be subject to the auditing procedures provided therein.

IX. Reporting to the Meeting of States Parties

15. An annual report on the activities of the Fund, including details of contributions and disbursements from the Fund, will be made to the Meeting of States Parties.

X. Implementing office

16. The Registry of the Tribunal is the implementing office for the Fund and will provide the services required for the operation of the Fund.

XI. Revision

17. The Tribunal may revise the above if circumstances so require. Any revision must be brought to the attention of the Meeting of States Parties.